**UNITED STATES DISTRICT COURT**

For the

Eastern District of Virginia

Fairfax Division

DONOLD JAMES ELSON*Plaintiff*



v.

JAMESON WILLIAM COLLINS*Defendant*Case Number: 1:18cv271 (LMB/JFA)**COMPLAINT AND REQUEST FOR INJUNCTION**

Plaintiff Donold Elson ("Plaintiff") brings this Complaint against Jameson Collins ("Collins") for infringing Plaintiff's exclusive rights under the Copyright Act (17 U.S.C. § 101 *et seq.*), misrepresentation under the Digital Millennium Copyright Act of 1998 (17 U.S.C. § 512(f)), and breach of license. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 17 U.S.C. § 501(b). Plaintiff alleges the following information:

INTRODUCTION

1. Collins is a fetish writer who posts works to Safe-Harbor websites.

1	Collins mainly posts on the website DeviantArt.com under the
2	username Gottemsquickfoot.
3	2. Collins gave rights to works ("Characters") to Plaintiff.
4	3. Collins uploaded copies of Characters to DeviantArt.com under
5	mediated agreement. Each copy must include ownership note.
6	Sample ownership tag ¹ :
7	
8	 POV TF: Nanny by SissyFairy <small>CORE</small> Literature / Prose / Fiction / Science Fiction / Short Stories ©2017-2018 SissyFairy #hypnosis #nanny #pov #transformation #nannymonster #facepaint #transgendertransformation
9	
10	
11	POV transformation into everyone's favorite mothering monster, Nanny!
12	
13	Nanny belongs to:
14	4. Collins removed ownership note and began copyright striking Plaintiff's
15	Characters.
16	5. Collins then reached out to other members of DeviantArt.com to
17	complain about Plaintiff's "theft and false DMCA filings".
18	6. Plaintiff brings this action to stop Collins' unlawful behavior and restore
19	status quo:
20	
21	THE PARTIES
22	7. Plaintiff Donold Elson is an artist and writer who posts to Safe-Harbor
23	websites. DeviantArt is his most active one and goes by the
24	pseudonym DreamerDon.
25	8. Plaintiff specializes in fetish art, but has launched a non-fetish comic
26	titled <i>Dragon War</i> . Story reference is registered with the United States
27	Copyright Office under <i>Dragon War Reference</i> .
28	9. Plaintiff is a resident of the State of Illinois and resides at 761

¹ Tag provided from DeviantArt.com - <http://fav.me/db2gkuf>. The bottom avatar is the Plaintiff's avatar.

1 Sundance Trail, Troy, IL 62294.

2 10. Defendant Jameson William Collins is a resident of Commonwealth of
3 Virginia and is believed to reside at 13371 Scotsmore Way, Herndon,
4 Virginia 20171.

5
6 **JURISDICTION AND VENUE**

7 11. This Court has subject matter jurisdiction over Plaintiff's copyrights
8 pursuant to 28 U.S.C. §§ 1331, 1338(a), and 17 U.S.C. § 501(b).

9 12. Venue is proper in this District pursuant to 28 U.S.C §§ 1391(b)(1) and
10 1400(a).

11
12 **BACKGROUND FACTS**

13 **Defendant transfers Characters to Plaintiff**

14 13. Plaintiff found Defendant online and initiated contact asking to draw
15 Defendant's Characters in February 2015.

16 14. Defendant agreed giving Plaintiff a free-to-use license on Characters.

17 15. Plaintiff uploaded *Casey Crinkleroo and Steph* on February 26, 2016.

18 16. Defendant announced that he was quitting DeviantArt and giving up
19 writing all together on March 15, 2016. This announcement is attached
20 as Exhibit A.

21 17. Plaintiff reached out to Defendant asking for Character Nanny.

22 18. Defendant agreed and made a formal notice of the transfer of all his
23 monster Characters on March 16, 2016. This announcement is
24 attached as Exhibit B.

25 19. Plaintiff uploaded the work *Inherited Monster: Nanny* on March 17,
26 2016.

27 20. Plaintiff began sorting through the rest of the Characters and modify
28 them removing non-copyrightable material from them.

29 21. Defendant then changed his mind on leaving DeviantArt on March 18,

1	2016.
2	22. Defendant posted <i>Blue Moon Chronicles: Baby Step by Step</i> story by
3	chapters from October 5th, 2016 to October 8th, 2016. Defendant
4	uses the Character Nanny as the story's antagonist and failed to notify
5	Plaintiff about story.
6	23. Defendant posted <i>blue moon backstory: the story queen</i> , a derivative
7	version of Plaintiff's <i>The Story Queen</i> on October 8th, 2016.
8	Defendant failed to notify Plaintiff.
9	24. Plaintiff uploaded his derivative version of the Character <i>Colette</i> on
10	October 18th, 2016.
11	25. Plaintiff broke off relations with Defendant on October 26th, 2016.
12	Plaintiff and Defendant reach new agreement through mediation
13	26. Plaintiff uploaded his derivative version of the Character <i>Lucy Lacey</i>
14	<i>Lawrence</i> on January 1st, 2017.
15	27. Defendant reached out to Plaintiff through a third party, John Flake
16	("Arbanis"), around January 3rd, 2017.
17	28. Arbanis is a citizen of the United Kingdom and fellow writer.
18	29. Arbanis served as mediator online between the parties.
19	30. Both Parties arrived at an agreement on January 4th, 2017.
20	a. Plaintiff transferred back all but 16 Characters to Defendant on
21	Good Faith.
22	b. Defendant was granted the permission to post original copies of
23	the 16 Characters as long as they had the ownership tag listed
24	on them.
25	31. Plaintiff uploaded the remainder 12 updated Characters from January
26	4th, 2017 to January 15th, 2017.
27	32. Defendant uploaded 15 of the 16 Character copies on January 10th,
28	2017. Each Character was uploaded with the ownership tag.
29	33. Plaintiff and Defendant again ended their brief relationship.

1	Defendant issues Copyright Infringements
2	34. Defendant posted a journal threatening Digital Millennium Copyright
3	Act ("DMCA") takedowns as punishment for the alleged bullying of
4	Charles Paulk unless Plaintiff returned ownership of all 16 characters
5	to Defendant on March 27, 2017.
6	35. Charles Paulk ("Paulk") is a citizen of Texas and goes by the name
7	Silva592 on DeviantArt.
8	36. Plaintiff has a strained relationship with Paulk after Plaintiff caught
9	Paulk infringing on Plaintiff's copyright twice. Plaintiff issued DMCA
10	takedown notices on Paulk and avoids him whenever he can.
11	37. Plaintiff pleaded with Defendant in a journal on March 27, 2017. It is
12	attached as Exhibit C.
13	38. Defendant uploaded <i>monster ranger faction: lost babies</i> on May 10th,
14	2017. It is described as "And here we have a nanny based faction for
15	those interested" and uses the character Rari-jamie. This is the
16	character Raritme, a My Little Pony Suited female named Jamie, the
17	Dragon Priestess. Jamie is copyrighted to Dragon War References.
18	Defendant only changed the name and gender of the character to
19	escape copyright infringement.
20	39. Defendant filed DMCA takedown notices on the works <i>Mao - updated</i>
21	<i>Monsters</i> and <i>Clara</i> which DeviantArt served Plaintiff on January 9th,
22	2018. Both works were taken down that day.
23	40. Plaintiff filed a DMCA counterclaim notice on January 9th, 2018 and
24	filed complaints with the FBI.
25	41. Plaintiff sent a Cease and Desist to Defendant on January 9th, 2018.
26	42. Plaintiff discovered the removal of all ownership tags on Defendant's
27	Character copies on January 9th, 2018.
28	43. Defendant filed DMCA takedown notices on the works <i>Colette</i> and
29	<i>Casey Crinkleroo and Steph</i> which DeviantArt served Plaintiff on

January 10th, 2018. Both works were taken down that day.

44. Plaintiff filed a DMCA counterclaim notice on January 10th, 2018 and filed complaints with the FBI.

45. Defendant uploaded last Character copy on January 10th, 2018. Copy was uploaded without the ownership tag.

46. Defendant uploaded work *Nanny Deck* which had two of Plaintiff's listed in the work on January 10th, 2018.

47. The works *Mao - updated Monsters* and *Clara* were restored to DeviantArt on January 23rd, 2018.

48. The works *Colette* and *Casey Crinkleroo and Steph* were restored to DeviantArt on January 24th, 2018.

Plaintiff issues DMCA takedown notices

49. Plaintiff gathered all characters and submit them to the United States Copyright Office for registration on January 25th, 2018. Plaintiff is expecting the copyright registration back between September 25th, 2018 and November 25, 2018.

50. Plaintiff filed 20 DMCA takedown notices on Defendant's character copies, *Nanny Deck*, *blue moon background: the story queen*, *blue moon chronicles: baby step by step ch 1*, *blue moon chronicles: baby step by step ch 4*, and *monster ranger faction: lost babies* on January 26th, 2018.

51. Defendant filed DMCA counterclaims on all 20 notices on January 31st, 2018.

52. The 20 works were restored to DeviantArt around February 20th, 2018.

53. Plaintiff tried mediation one more time.

54. Plaintiff contacted Arbanis again on February 18th, 2018 and asked him to mediate once more.

55. Arbanis reached out to Defendant, but Defendant didn't respond.

56. Plaintiff reached out to Defendant by text message, but Plaintiff did not

1 get a response.

2 57. Plaintiff sent a proposed agreement to Defendant through email, but
3 Defendant did not respond.

4 58. Defendant has contacted and continues to contact other parties to try
5 to get Plaintiff terminated from DeviantArt.

6
7 **CLAIM 1**

8 **Breach of License**

9 59. Plaintiff incorporates herein by reference each and every averment
10 contained in paragraphs 1 through 58 inclusive.

11 60. Plaintiff and Defendant entered into a mediated agreement.

12 61. Defendant was licensed to show one copy per Character on DeviantArt
13 with ownership tag on description of said copy.

14 62. Defendant uploaded copies of 15 Characters with said ownership tag.

15 63. Defendant purposely removed ownership tags from all 15 Character
16 copies removing the condition precedent of the license.

17 64. Defendant uploaded last Character copy without said ownership tag.

18 The conditional precedent was not met and the license was voided.

19 65. Without the condition precedent not being met and/or removed,
20 Defendant voided the license.

21 66. Plaintiff to prove at trial.

22
23 **CLAIM 2**

24 **Copyright infringement under 17 U.S.C. § 101 (*et seq.*)**

25 67. Plaintiff incorporates herein by reference each and every averment
26 contained in paragraphs 1 through 66 inclusive.

27 68. Without a valid license, copies and works featuring the Characters are
28 infringing.

29 69. Removal of the ownership tags by Defendant was in clear violation of

1 Plaintiff's exclusive rights.

2
3 **CLAIM 3**

4 **Misrepresentation under 17 U.S.C. § 512(f)**

5 70. Plaintiff incorporates herein by reference each and every averment
6 contained in paragraphs 1 through 69 inclusive.

7 71. Defendant asserted illegitimate DMCA claims using infringing works for
8 the requirement of works being infringed upon.

9 72. Defendant asserted an illegitimate DMCA claim against a work that
10 had an express license provided by the Defendant.

11 73. Defendant is liable for the actual damages of his illegitimate claims.

12 74. Plaintiff will prove damages at trial.

13
14 **CLAIM 4**

15 **Defamation**

16 75. Plaintiff incorporates herein by reference each and every averment
17 contained in paragraphs 1 through 74 inclusive.

18 76. Defendant purposely reached out to others not to act like a mediator to
19 resolve this issue with Plaintiff, but to submit false complaints to
20 DeviantArt staff on Defendant's behalf.

21 77. Plaintiff will prove damages at trial.

22
23 **IRREPARABLE INJURY**

24 78. The injuries that Defendant has inflicted and continues to inflict on
25 Plaintiff goes beyond monetary damages and instead focuses on
26 Plaintiff's standing with DeviantArt and other parties. The site itself
27 operates under the Safe-Harbor provision of the Digital Millennium
28 Copyright Act.

29 79. This provision forces the site to have consequences for repeat

copyright infringers and for people who file false DMCA complaints.

The consequences usually end up with the infringer being terminated from the site and banned.

80. Defendant has tried to use this provision to remove Plaintiff's rights to the characters. And when that hadn't work, Defendant tried and continues to try to skirt due process by enlisting other users of the site to bring complaints against Plaintiff even when they are not a party to the original complaint.

81. Defendant refuses to hear this matter even though the mediator was the same one used.

82. Without the Court's intervention, Plaintiff is convinced without a reasonable doubt of suspicion that Defendant will continue his actions to inflict damages against Plaintiff at all costs.

PRAYER FOR RELIEF

83. The Plaintiff humbly asks the Court for:

- i. A Preliminary Injunction enjoining Defendant from posting any more infringing works, issuing takedown notices against Plaintiff, and enlisting others to do the same;
- ii. a Permanent Injunction enjoining Defendant from posting any more infringing works, from issuing takedown notices against Plaintiff, and enlisting others to do the same;
- iii. a Declaratory Judgement finding Plaintiff to be the legitimate owner of copyrights to Characters;
- iv. and other relief the Court may deem necessary and/or appropriate.

CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, Plaintiff

1 certifies to the best of his knowledge, information, and belief that this
 2 complaint: (1) is not being presented for an improper purpose, such as to
 3 harass, cause unnecessary delay, or needlessly increase the cost of litigation;
 4 (2) is supported by existing law or by a nonfrivolous argument for extending,
 5 modifying, or reversing existing law; (3) the factual contentions have
 6 evidentiary support or, if specifically so identified, will likely have evidentiary
 7 support after a reasonable opportunity for further investigation or discovery;
 8 and (4) the complaint otherwise complies with the requirements of Rule 11.

9 As pro se, Plaintiff agrees to provide the Clerk's Office any change to my
 10 address where case-related papers may be served. Plaintiff understands that
 11 failure to do so may result in a dismissal of the case.

12
 13 March 9th 2018

14 Date



15 Donald J. Elson -

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18 Phone 314-898-3732 -

19 Email dreamerdon86@gmail.com -
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